

00564-75450 (ROB)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

DENITA R. EASON,

Plaintiff,

vs.

**No. _____
Jury Demanded**

**WILLIAM E. RAY, individually and
MIDWEST LOGISTICS SYSTEMS LTD.,
John Doe 1, Inc. and John Doe 2, Inc.,**

Defendants.

NOTICE OF REMOVAL

Defendant Midwest Logistics Systems Ltd. submits this Notice of Removal and notifies the Judges of the United States District Court for the Western District of Tennessee, the clerk of the Circuit Court of Benton County, Tennessee, and counsel for Plaintiff, Jennifer L. Miller and Bryce Brewer, that the action described herein and filed in the Circuit Court of Benton County, Tennessee, Docket No. 13-cv-42, is removed to the United States District Court for the Western District of Tennessee, Eastern Division, pursuant to 28 U.S.C. Section 1441.

1. On August 30, 2013, Plaintiff Denita R. Eason filed a civil action bearing Docket No. 13-cv-42 against Defendants William E. Ray, individually and Midwest Logistics Systems Ltd., John Doe 1, Inc. and John Doe 2, Inc., in the Circuit Court of Benton County, Tennessee.

2. Plaintiff's Complaint alleges that Plaintiff is a resident of Carlisle, Lonoke County, Tennessee (which counsel for this defendant believes Lonoke County is in Arkansas), Defendant William E. Ray is a resident of Elizabethtown, Hamilton County, Ohio, Defendant Midwest Logistics Systems Ltd. Is a domestic limited liability company with its principal office located in Celina, Mercer County, Ohio, and Plaintiff seeks compensatory damages of \$100,000.00.

2. Service upon Defendant was attempted through private process with a summons issued to Defendant Midwest Logistics Systems Ltd. on September 13, 2013. Process was received by "Ellen Welker" on behalf of Defendant via deputy John Marbaugh on September 20, 2013. A copy of the Summons and Complaint, served via said deputy to Defendant Midwest Logistics Systems Ltd., is attached hereto as **Exhibit A**.

3. Prior to filing this Notice of Removal, Defendant Midwest Logistics Systems Ltd. has made no filing in State court that could be construed as a general appearance and has waived no defenses. Thus, Defendant Logistics Systems Ltd. expressly reserves all objections and defenses to which it may be entitled, including objections and defenses as to propriety of process, service of process, personal jurisdiction, and all other objections and defenses available under Federal Rule of Civil Procedure 12(b) and applicable Federal and Tennessee state law, pursuant to Morris & Co. v. Skandinavia Ins. Co., 279 U.S. 405, 409 (1929), and Goldey v. Morning News, 156 U.S. 518, 526 (1895); Cherokee Ins. Co. By and Through Weed v. E.W. Blanch Co., 66 F.3d 117 (6th Cir. 1995); Mullen v. Sears, Roebuck and Co., 887 F.2d 615 (5th Cir. 1989); and Nationwide Engineering & Control Systems, Inc. v. Thomas, 837 F.2d 345 (8th Cir. 1988). Defendant Midwest Logistics Systems Ltd. further reserves the right to petition this Federal Court for a transfer or change of venue pursuant to 28 U.S.C. § 1404.

4. Defendant Midwest Logistics Systems Ltd. seeks removal of this action to this Federal Court upon the grounds that the controversy is wholly between citizens of different states and involves an amount in controversy which exceeds Seventy-five Thousand Dollars (\$75,000.00), exclusive of the interest and costs, pursuant to 28 U.S.C. § 1332.

6. This notice is filed within the time prescribed by 28 U.S.C. Section 1446(b).

7. A Notice of Filing Notice of Removal is being filed with the Benton County, Tennessee, Circuit Court. A copy of same is attached hereto as **Exhibit B**.

9. A Civil Cover Sheet is attached hereto as **Exhibit C**.

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WHEREFORE, Notice is hereby given by Defendant Midwest Logistics Systems Ltd. that the said civil action number CC-2013-CV-17 is removed from the Circuit Court of Benton County, Tennessee, to this Federal District Court.

Respectfully submitted,

RAINEY, KIZER, REVIERE & BELL, P.L.C.

By: s/Robert O. Binkley, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on this the 18th day of October, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing report. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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